

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
IPEA/US

In re Application of:

POLYONE CORPORATION, David  
FOELL, and William BJERKE

Serial No.: PCT/US03/032453  
Filed: October 14, 2003 (14.10.03)

Examiner: M. Safavi

For: CONCRETE FILLABLE  
FORMWORK WALL

VIA FAX:  
703-305-3230

**Rule 34 Amendment**

Mail Stop PCT, Attn: IPEA/US  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

**Introductory Comments**

In response to the Written Opinion mailed December 8, 2004, Applicants submit remarks, replacement pages for their claims, and pages showing how the claims were amended.

All Claims, amended, are novel over either U.S. Pat. No. 5,106,233 (Breux) or U.S. Pat. No. 5,216,863 (Nessa et al.) (both used to reject Claims 1 and 2 ) because Claim 1 now emphasizes that the tubular form element has multiple wall faces and that the at least one female engagement portion extends into the interior chamber from a vertex of adjacent wall faces. Breux does not have multiple wall faces; Nessa et al. does not have engagement portions that extend into the interior chamber of the form element from a tubular form element having multiple wall faces. Support for the amendments to Claim 1 are found in the drawings, pages 10-12 of the specification, and original claims 4 and 7.

I hereby certify that this paper is being facsimile transmitted to the United States Patent and Trademark Office on the date shown below to IPEA/US Fax Number (703) 305-3230:	
Date <u>January 5, 2005</u>	Signed <u>John H. Hornickel</u>
	John H. Hornickel, Reg. No. 29,393

All Claims are also inventive over Breaux, Nessa et al., or a combination of them because neither of them teach or suggest providing a female engagement portion on a tubular form element that extends into the interior chamber and has its opening for receiving engagement at the vertex of adjacent wall faces of that tubular form element. Because of the vertex location for mating of two tubular form elements, an interlocking wall structure can be made that relies on the geometry of the adjacent wall faces and the vertex where engagement occurs to provide both strength and the ability to create a flat wall appearance if one also uses a wall panel such as seen in Fig. 6. (See also pages 14 and 15.)

Neither Breaux nor Nessa et al. (Figs. 7-9 embodiment) are able to benefit from the triangular geometric mating of the adjacent wall faces and vertex invented by Applicants. Moreover, while Nessa et al. (Figs. 1-3 embodiment) does have mating of adjoining elements which both have multiple wall faces, that Figs. 1-3 embodiment does not utilize the vertex of adjacent wall faces for mating engagement nor the use of the female engagement portion extending into the interior chamber to allow the ability to create a flat wall appearance.

The presence of multiple embodiments in Nessa et al., *teaching in opposite directions from themselves*, also proves the inventiveness of Applicants' claims. Applicants' invention fills a void found in the prior art. What Nessa et al. lacks is not found in Breaux, which encourages a front-to-back coupling of circular form elements with no adjacent wall faces or vertices for interlocking engagement.

Applicants have also amended their claims to remove any doubt about dependency of the various claims and made other clarifying amendments not required because of the prior art.

If there are any matters that prevent a Positive International Preliminary Examination Report, the Authorized Officer Examiner is invited to contact the Undersigned by telephone.

Respectfully submitted by:

January 5, 2005  
Date

John H. Hornickel  
John H. Hornickel  
Registration No. 29,393

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PolyOne Corporation  
33587 Walker Road  
Avon Lake, Ohio 44012

Telephone: 440-930-3317  
Fax: 440-930-1179  
John.Hornickel@PolyOne.com